IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ petition No. 19 (M/S) of 2006

(Under Article 227 of the Constitution of India)

District –Haridwar

Karnataka Dharmashala, Bhola Giri Road, Haridwar through its Honarary Manager Ram Murti S/o late Sri P.N. Shastri R/o Karnataka Dharamshala, Bhola Giri Raod, Haridwar ……...Petitioner

Versus

Nagar Palika Parishad, Haridwar, through its Executive Officer, Haridwar……Respondent

Counsel for the petitioner Sri. Bhagat Tewari, Advocate.

Counsel for the respondents Sri Pankaj Miglani, Advocate.

Hon'ble Rajesh Tandon, J.

Dated 16.6.2006

By the present writ petition the petitioner has prayed for setting aside the order dated 15.12.2005 to the extent of rejection of the appeal of the petitioner by the Chief Judicial Magistrate, Haridwar.

Briefly stated according to the case of the petitioner the property is known as Karnataka Dharmashala, which is being used for the purposes of staying the pilgrims and for the facilities of their lodging which is being provided free of cost and nothing is being charged on account of their period of lodging in the Dharmashala. According to

the case of the petitioner without issuing any notice under section 141(1) & 143(1) of the Municipalities Act a demand notice was sent to the extent of Rs. 5320/- as water tax.

According to the petitioner he has raised the objections. However the objections were rejected on 12.5.1999.

The petitioner has preferred an appeal under section 160 of the U.P. Municipalities Act before the Chief Judicial Magistrate, Haridwar. The Chief Judicial Magistrate, Haridwar has partly allowed the appeal and has fixed the valuation to the extent of Rs. 13000/- annually.

The petitioner has submitted that by way of notification dated 16.6.1990 bye-laws were amended to the following effect :-

12 मई 1990 संधोधित नियमावली

स्तम्भ–2

संप्रोधित नियम

1. हरिद्वार युनियन नगरपालिका भवनों का वार्षिक आय का 10 प्रतिप्रत की दर से जलकर होगा।

2. प्रतिबन्ध यह है। कि निम्न प्रकार के भवनों पर कोई जलकर नहीं होगा–

क. सभी मंदिर, मस्जिद, गिरजाघर, गुरूद्वारा, विद्यालय, अनाथलय व सर्वजनिक अस्पतालों तथा सभी लाईसेंस प्राप्त धर्मप्रालाओं के वह भाग जिसके किराये की आय प्राप्त नही होती हो। तथा निजी आवास हेतु

Counsel for the respondent Sri Pankaj Miglani, Advocate has not disputed the aforesaid notification by which the bye-laws were amended. He has also submitted that the amended bye-laws are fully applicable to the Dharmashala.

In view of the above, the assessment orders require reconsideration.

A writ of Certiorari is issued, quashing the orders dated 15.12.2005, and 12.5.1999 passed by Chief Judicial Magistrate, Haridwar. The matter is remanded to the Nagar Palika for passing fresh order in the light of the observation made above.

Writ petition is allowed. No order as to costs.

Dated 16.6.2006

(Rajesh Tandon, J.)